

111TH CONGRESS
1ST SESSION

S. 2810

To require the Secretary of Agriculture to provide emergency disaster assistance to certain agricultural producers that suffered losses during the 2009 calendar year.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20, 2009

Mr. COCHRAN (for himself, Mr. WICKER, and Mrs. LINCOLN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To require the Secretary of Agriculture to provide emergency disaster assistance to certain agricultural producers that suffered losses during the 2009 calendar year.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EMERGENCY DISASTER ASSISTANCE.**

4 (a) DEFINITIONS.—In this section:

5 (1) DISASTER COUNTY.—

6 (A) IN GENERAL.—The term “disaster
7 county” means a county included in the geo-
8 graphic area covered by a qualifying natural
9 disaster declaration for calendar year 2009 for

1 which the request for such declaration was ap-
2 proved by the Secretary as of November 17,
3 2009.

4 (B) EXCLUSION.—The term “disaster
5 county” does not include a contiguous county.

6 (2) ELIGIBLE PRODUCER.—The term “eligible
7 producer” means an agricultural producer in a dis-
8 aster county.

9 (3) ELIGIBLE SPECIALTY CROP PRODUCER.—
10 The term “eligible specialty crop producer” means
11 an agricultural producer that, during the 2009 cal-
12 endar year, as determined by the Secretary—

13 (A) produced, or were prevented from
14 planting, a specialty crop in 1 or more disaster
15 counties; and

16 (B) experienced crop losses associated with
17 drought or excessive rainfall.

18 (4) QUALIFYING NATURAL DISASTER DECLARA-
19 TION.—The term “qualifying natural disaster dec-
20 laration” means a natural disaster declared by the
21 Secretary for production losses under section 321(a)
22 of the Consolidated Farm and Rural Development
23 Act (7 U.S.C. 1961(a)).

24 (5) SECRETARY.—The term “Secretary” means
25 the Secretary of Agriculture.

1 (6) SPECIALTY CROP.—The term “specialty
2 crop” has the meaning given the term in section 3
3 of the Specialty Crops Competitiveness Act of 2004
4 (Public Law 108–465; 7 U.S.C. 1621 note).

5 (b) SUPPLEMENTAL DIRECT PAYMENT.—Of the
6 funds of the Commodity Credit Corporation, the Secretary
7 shall use such sums as are necessary to make a supple-
8 mental payment under section 1103 of the Food, Con-
9 servation, and Energy Act of 2008 (7 U.S.C. 8713) to
10 eligible producers that previously received a payment
11 under that section.

12 (c) SPECIALTY CROP ASSISTANCE.—

13 (1) IN GENERAL.—Of the funds of the Com-
14 modity Credit Corporation, the Secretary shall use
15 not more than \$650,000,000, to remain available
16 until September 30, 2011, to carry out a program
17 of grants to States to assist eligible specialty crop
18 producers for losses associated with drought or ex-
19 cessive rainfall during the 2009 calendar year.

20 (2) NOTIFICATION.—Not later than 60 days
21 after the date of enactment of this Act, the Sec-
22 retary shall notify the State department of agri-
23 culture (or similar entity) in each State of the avail-
24 ability of funds to assist eligible specialty crop pro-
25 ducers, including such terms as are determined by

1 the Secretary to be necessary for the equitable treat-
2 ment of eligible specialty crop producers.

3 (3) PROVISION OF GRANTS.—

4 (A) IN GENERAL.—The Secretary shall
5 make grants to States under this subsection on
6 a pro rata basis based on the value of specialty
7 crop production during the 2008 calendar year,
8 as determined by the Secretary.

9 (B) TIMING.—Not later than 120 days
10 after the date of enactment of this Act, the Sec-
11 retary shall make grants to States to provide
12 assistance under this subsection.

13 (C) MAXIMUM GRANT.—The maximum
14 amount of a grant made to a State under this
15 subsection may not exceed \$40,000,000.

16 (4) REQUIREMENTS.—The Secretary shall
17 make grants under this subsection only to States
18 that demonstrate to the satisfaction of the Secretary
19 that the State will—

20 (A) use grant funds to assist eligible spe-
21 cialty crop producers;

22 (B) provide assistance to eligible specialty
23 crop producers not later than 60 days after the
24 date on which the State receives grant funds;
25 and

(C) not later than 30 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(d) COTTONSEED ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than \$42,000,000 to provide supplemental assistance to eligible producers and first-handlers of the 2009 crop of cottonseed in disaster counties.

(2) GENERAL TERMS.—Except as otherwise provided in this subsection, the Secretary shall provide disaster assistance under this subsection under the same terms and conditions as assistance provided under section 3015 of the Emergency Agricultural Disaster Assistance Act of 2006 (title III of Public Law 109–234; 120 Stat. 477).

1 (3) DISTRIBUTION OF ASSISTANCE.—The Sec-
 2 retary shall distribute assistance to first handlers for
 3 the benefit of eligible producers in a disaster county
 4 in an amount equal to the product obtained by mul-
 5 tiplying—

6 (A) the payment rate, as determined under
 7 paragraph (4); and

8 (B) the county-eligible production, as de-
 9 termined under paragraph (5).

10 (4) PAYMENT RATE.—The payment rate shall
 11 be equal to the quotient obtained by dividing—

12 (A) the sum of the county-eligible produc-
 13 tion, as determined under paragraph (5); by

14 (B) the total funds made available to carry
 15 out this subsection.

16 (5) COUNTY-ELIGIBLE PRODUCTION.—The
 17 county-eligible production shall be equal to the prod-
 18 uct obtained by multiplying—

19 (A) the number of acres planted to cotton
 20 in the disaster county, as reported to the Sec-
 21 retary by first-handlers;

22 (B) the expected cotton lint yield for the
 23 disaster county, as determined by the Secretary
 24 based on the best available information; and

1 (C) the national average seed-to-lint ratio,
2 as determined by the Secretary based on the
3 best available information for the 5 crop years
4 immediately preceding the 2009 crop, excluding
5 the year in which the average ratio was the
6 highest and the year in which the average ratio
7 was the lowest in such period.

8 (e) LIVESTOCK ASSISTANCE.—

9 (1) CONTINUATION OF ASSISTANCE PRO-
10 GRAM.—

11 (A) IN GENERAL.—Subject to paragraph
12 (3), the Secretary shall continue to carry out
13 the 2002 Livestock Compensation Program an-
14 nounced by the Secretary on October 10, 2002
15 (67 Fed. Reg. 63070) (referred to in this para-
16 graph as the “Program”).

17 (B) ASSISTANCE.—In carrying out the
18 Program, the Secretary shall provide assistance
19 to any applicant that—

20 (i) conducts a livestock operation that
21 is physically located in a disaster county
22 and meets all other eligibility requirements
23 established by the Secretary for the Pro-
24 gram; or

(ii) produces an animal described in section 10806(a)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d(a)(1)) and meets all other eligibility requirements established by the Secretary for the Program.

(C) USE OF COMMODITY CREDIT CORPORATION FUNDS.—Effective beginning on the date of enactment of this Act, the Secretary shall carry out the Program using funds of the Commodity Credit Corporation.

(2) LIVESTOCK LOSS ASSISTANCE PROGRAM.—Subject to paragraph (3), of the funds of the Commodity Credit Corporation, the Secretary shall use \$150,000,000 to carry out a program to make payments to eligible producers for livestock losses occurring in a disaster county under the same criteria established to carry out the 1999 Livestock Assistance Program.

(3) RELATIONSHIP OF LIVESTOCK ASSISTANCE PROGRAMS.—The amount of assistance that the eligible producers on a farm would otherwise receive for a loss under a livestock assistance program, except for the operation of this subsection, shall be reduced by the amount of the assistance that the eligi-

1 ble producers on the farm receive under any other
2 livestock assistance program.

3 (f) RELATION TO OTHER LAW.—An eligible producer
4 or eligible specialty crop producer that receives assistance
5 under this section shall be ineligible to receive assistance
6 for the 2009 crop year under the program carried out
7 under section 531 of the Federal Crop Insurance Act (7
8 U.S.C. 1531) and section 901 of the Trade Act of 1974
9 (19 U.S.C. 2497).

10 (g) ADMINISTRATION.—

11 (1) REGULATIONS.—

12 (A) IN GENERAL.—As soon as practicable
13 after the date of enactment of this Act, the Sec-
14 retary shall promulgate such regulations as are
15 necessary to implement this section.

16 (B) PROCEDURE.—The promulgation of
17 the regulations and administration of this sec-
18 tion shall be made without regard to—

19 (i) the notice and comment provisions
20 of section 553 of title 5, United States
21 Code;

22 (ii) the Statement of Policy of the
23 Secretary of Agriculture effective July 24,
24 1971 (36 Fed. Reg. 13804), relating to no-

1 tices of proposed rulemaking and public
2 participation in rulemaking; and

3 (iii) chapter 35 of title 44, United
4 States Code (commonly known as the “Pa-
5 perwork Reduction Act”).

6 (C) CONGRESSIONAL REVIEW OF AGENCY
7 RULEMAKING.—In carrying out this paragraph,
8 the Secretary shall use the authority provided
9 under section 808 of title 5, United States
10 Code.

11 (2) OFFSET.—

12 (A) IN GENERAL.—The Secretary of the
13 Treasury shall rescind such funds as are nec-
14 essary of funds made available under the Trou-
15 bled Asset Relief Program established under
16 title I of division A of the Emergency Economic
17 Stabilization Act of 2008 (12 U.S.C. 5211 et
18 seq.) to reimburse the Commodity Credit Cor-
19 poration for expenditures under this Act.

20 (B) ADMINISTRATIVE COSTS.—The Sec-
21 retary may use up to \$5,000,000 of amounts
22 made available under subparagraph (A) to pay
23 administrative costs incurred by the Secretary

1 that are directly related to carrying out this
2 Act.

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